

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JAMES M. BOYD,

Petitioner,

v.

No. 13-cv-0331 JAP/SMV

TROY JONES,

Respondent.

**ORDER DENYING PETITINOER'S MOTIONS REGARDING HEARING
AND REQUIRING RESPONDENT TO ANSWER**

THIS MATTER is before the Court on Rules 1(b) and 4 of the Rules Governing Section 2254 Cases, on Petitioner's [Application for Writ of Habeas Corpus] [Doc. 1], letter-motion for a hearing [Doc. 4], and letter-motion for clothing to attend a hearing [Doc. 5]. The two letter-motions that make requests regarding a hearing are premature and will be denied at this time. *See* Rule 8 of the Rules Governing Section 2254 Cases (a court's determination whether to hold a hearing is predicated upon there being an answer in the case). Having determined that the Petition may not be subject to summary dismissal,

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Petitioner's letter-motion for a hearing [Doc. 4] and letter-motion for clothing to attend a hearing [Doc. 5] are both **DENIED** at this time;

IT IS FURTHER ORDERED that the Clerk is directed to forward copies of this Order and the Petition [Doc. 1] to Respondent and the New Mexico Attorney General;

IT IS FURTHER ORDERED that Respondent answer the Petition [Doc. 1] within thirty (30) days from entry of this Order. Respondent's answer shall advise, but is not limited to, whether

the Petitioner has exhausted his state court remedies as to the issues raised in the federal application. In each case, Respondent shall attach to its answer copies of any pleading pertinent to the issue of exhaustion which was filed by Petitioner in the sentencing court, the state district court, the state court of appeals and the state supreme court, together with copies of all memoranda filed by both parties in support of or in response to those pleadings. Respondent shall also attach to the answer copies of all state court findings and conclusions, docketing statements, and opinions issued in Petitioner's state court post-conviction or appellate proceedings. In the event Respondent denies exhaustion, Respondent shall identify the State procedures currently available to Petitioner given the nature of Petitioner's claims and their procedural history.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'S. Vidmar', is written over a horizontal line.

STEPHAN M. VIDMAR
United States Magistrate Judge